



**ROBINSON MCFADDEN**  
ATTORNEYS AND COUNSELORS AT LAW

ROBINSON, MCFADDEN & MOORE, P.C.  
COLUMBIA, SOUTH CAROLINA

February 3, 2015

**VIA ELECTRONIC FILING**

Ms. Jocelyn Boyd, Chief clerk/Administrator  
Public Service Commission of South Carolina  
Synergy Business Park, Saluda Building  
101 Executive Center Drive  
Columbia, SC 29210

**Bonnie D. Shealy**  
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**Re: Rosalyn Geer v. Duke Energy Carolinas, LLC**  
**Docket No. 2015-34-E**

Dear Ms. Boyd:

Enclosed for filing in the above-captioned matter please find the Motion of Duke Energy Carolinas, LLC to dismiss the complaint of Rosalyn Geer and our request to hold all filing deadlines and the hearing in abeyance pending resolution of the motion. It is our understanding that the Commission will not meet again until February 11<sup>th</sup> which is the deadline for ORS and the Company to file testimony. As a result, we respectfully request that Hearing Examiner Minges grant the parties an extension of the current filing deadlines to allow the Commission sufficient time to rule on our enclosed motion. By copy of this letter we are serving the Office of Regulatory Staff and other parties of record in this proceeding with the same. If you have any questions, please contact me.

Very truly yours,

ROBINSON, MCFADDEN & MOORE, P.C.

Bonnie D. Shealy

/tch  
Enclosure

cc/enc: Josh Minges, Hearing Examiner (via email)  
Ms. Rosalyn Geer (via email & US Mail)  
Shannon Bowyer Hudson, Deputy Director, Legal Services, (via email & US Mail)  
Heather S. Smith, Deputy General Counsel (via email)  
Barbara Yarbrough, Regulatory Affairs Manager (via email)

**BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA**

**Docket No. 2015-34-E**

<b>IN RE:</b>	)	
	)	
<b>Rosalyn Geer,</b>	)	<b>MOTION OF DUKE ENERGY</b>
<b>Complainant,</b>	)	<b>CAROLINAS, LLC TO DISMISS</b>
	)	<b>THE COMPLAINT OF ROSALYN</b>
<b>v.</b>	)	<b>GEER AND REQUEST TO HOLD</b>
	)	<b>FILING DEADLINES AND HEARING</b>
<b>Duke Energy Carolinas, LLC,</b>	)	<b>DATE IN ABEYANCE PENDING</b>
<b>Respondent.</b>	)	<b>RESOLUTION OF MOTION</b>
_____	)	

Pursuant to S.C. Code Ann. Regs. 103-829, Rule 12(b)(6) of the South Carolina Rules of Civil Procedure and applicable South Carolina law, Respondent, Duke Energy Carolinas, LLC (“Duke Energy Carolinas” or “Company”) hereby moves the Public Service Commission of South Carolina (“Commission”) to dismiss the above-captioned matter on the merits because it fails to state a claim upon which relief can be granted. The Company also requests that the filing deadlines and the hearing date be held in abeyance until this Motion is resolved. The South Carolina Office of Regulatory Staff concurs in the request to hold the filing deadlines and hearing date in abeyance for all parties. In support of this motion, Duke Energy Carolinas shows as follows:

**BACKGROUND**

Complainant Rosalyn Geer has been a customer of Duke Energy Carolinas at 207 Ramsey Road, Anderson, South Carolina since January 2006 under several different account numbers. During this period the electric service has been disconnected several times with gaps in service from a few weeks to several months. The most recent disconnection for nonpayment occurred on November 25, 2014. As Duke Energy Carolinas understands the complaint, Ms. Geer wants her service reconnected upon the basis that there is a medical need for electric

service. However, Ms. Geer has failed to comply with the statutory and regulatory requirements to be designated as a “special needs account customer.”

Duke Energy Carolinas records shown that Ms. Geer has had difficulty paying her bills for many years. She has sought the assistance of the Office of Regulatory Staff on numerous occasions over the last several years and has received funds from a local assistance agency. The Company has made several deferred payment plans with Ms. Geer over the years.

Ms. Geer contacted the South Carolina Office of Regulatory Staff (“ORS”) on November 17, 2014, alleging she had made payment to avoid disconnection but the Company had no record of payment. Ms. Geer was given until November 24, 2015 to provide a receipt or otherwise make payment, but neither a receipt nor payment was provided. Service was disconnected prior to the moratorium period, on November 25, 2015, in accordance with S. C. Code Ann. Regs. 103-342(g) and 103-352.

Duke Energy Carolinas’ “special needs” program is called the “Medical Alert” program. The medical alert process allows customers to notify the Company if there are medical situations that should be considered during any month of the year if the account is subject to disconnection. Although there is no prohibition of disconnection, the Company’s special needs (medical alert) process does provide for careful handling of such identified accounts with additional notifications. The Company’s records also do not show that Ms. Geer has submitted the necessary form to have the account set up as medical alert which provides for careful handling prior to disconnection

Absent any arrangements to reestablish service, the account was final billed on December 18, 2015, for a total of \$288.17. Deposit and interest of \$252.92 were credited to the account leaving an outstanding balance of \$35.25.

Ms. Geer contacted the ORS again on December 22, 2014. At that time, the Company informed ORS that Ms. Geer still had not produced any evidence of her payment. As of the date of this filing, with accrual of additional late charges, the total outstanding balance is \$35.77.

The Company's records indicate that a local assistance agency has made substantial payments on Ms. Geer's bill in each of the last four years. The records show that SHARE paid \$434.48 on Ms. Geer's bill in January 2013 and \$651.79 in February 2014. Since it has been almost a year since SHARE last assisted Ms. Geer, the Company would urge her to seek assistance in paying her outstanding bill and the required deposit in order to reestablish service. Pursuant to S. C. Code Ann. Regs. 103-331(A), the Company may require a deposit of \$475.00; however, the Company is willing to accept a deposit, or satisfactory guarantor for \$250.00.

The Company includes a bill insert annually that explains the requirements for the medical alert program which designates an account as "special needs." In addition, information on the moratorium for disconnections from December through March is included in the Disconnection Notice sent to all customers subject to disconnection for nonpayment. Ms. Geer's service was disconnected prior to the beginning of the moratorium period. The Company's records reflect no indication by Ms. Geer of any medical issues within her household and no requests by Ms. Geer for information on the special needs designation or Medical Alert program.

### **FAILURE TO STATE A CLAIM**

S.C. Code Sections 58-27-2510 *et seq.* outline the statutory requirements for terminating electric service due to nonpayment. S.C. Code Section 58-27-2520(A) requires each electric utility to establish written procedures for termination of service due to nonpayment for a special needs account customer at any time and for all residential customers during weather conditions marked by extremely hot or extremely cold temperatures.

The Company has no record that Ms. Geer provided the required certificate to be designated as a “special needs customer” which provides for special handling of the account during all months, but does not prohibit disconnection of service. S.C. Code Ann. Regs 103-352(a)(3)(b) does provide additional protections during the months of December through March for special needs customers who also demonstrate inability to pay the bill. However, even if Ms. Geer had submitted the required certificate under this rule, service was disconnected prior to the effective date of the moratorium period. As outlined above Ms. Geer’s termination of service performed in accordance with the applicable rules.

S.C. Code Section 58-27-2510(2) provides that in order to be designated as a “special needs account customer” the customer must furnish to the utility a certificate on a form provided by the utility and signed by a licensed health care provider that states that termination of electric service would be dangerous to the health of the customer or a member of his household or who suffers from Alzheimer’s disease or dementia at the premises to which electric service is rendered. S.C. Code Ann. Regs. 103-352(a)(3) outlines the regulatory requirements to terminate service for “special needs customers.” Ms. Geer has not submitted the necessary information to the Company to be designated as a “special needs or medical alert account customer.”

Duke Energy Carolinas respectfully requests that the Complaint be dismissed pursuant to Rule 12(b)(6), SCRCPP, for failure to state facts sufficient to constitute a claim. The complaint fails to allege any violation of an applicable statute or regulation with respect to Duke Energy Carolinas’ termination of Ms. Geer’s service for nonpayment.

Duke Energy Carolinas understands the relief Ms. Geer requests is restoration of service; however, Ms. Geer has not satisfied the outstanding debt nor has she reestablished credit by paying the required deposit of \$250.00. The Company has correctly denied service pursuant to

S. C. Code Ann. Regs. 103-342(g) and (h). Notwithstanding these requirements, the Company agrees to reconnect service once it receives payment of the outstanding bill of \$35.77 and the \$250 security deposit.

Secondly Ms. Geer requests that her service be subject to the Company's special needs process. The Company cannot designate her as a special needs customer until she complies with the regulatory requirements by completing the necessary forms to be designated as a special needs customer or qualifies for the moratorium during the months of December through March. Once Ms. Geer reestablishes service and completes the necessary forms, the Company can designate her a "special needs customer."

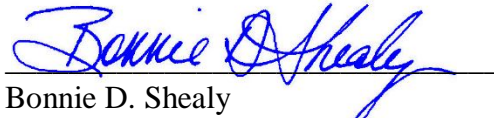
### **CONCLUSION**

Since there is no allegation that Duke Energy Carolinas acted inappropriately or violated any applicable statute or regulation, and since Duke Energy Carolinas cannot classify Ms. Geer as a "special needs customer" without an active electric account and the proper documentation, there is no basis to grant the relief requested in the Complaint. Therefore, this matter should be dismissed.

WHEREFORE, Duke Energy Carolinas moves the Commission to dismiss the Complaint with prejudice, hold the testimony deadlines for all parties and the hearing in abeyance pending resolution of this motion, and requests such other relief as the Commission deems just and proper.

Dated this 3<sup>rd</sup> day of February 2015.

Robinson, McFadden & Moore, P.C.



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Attorney for Duke Energy Carolinas, LLC

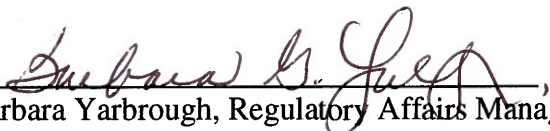
## VERIFICATION

I, Barbara Yarbrough, am Regulatory Affairs Manager for Duke Energy Carolinas, LLC. I am responsible for responding to customer inquiries including those directed to the South Carolina Office of Regulatory Staff ("ORS"). I have reviewed the documents received and maintained in the ordinary course of business by Duke Energy Carolinas. I am familiar with the records of Duke Energy Carolinas that pertain to Rosalyn Geer's electric service account.

I have personally knowledgeable as to the records and information discussed in the attached motion to dismiss, I know them to be true of my own knowledge or I have gained knowledge of them from the records of Duke Energy Carolinas, which are maintained in the ordinary course of business by Duke Energy Carolinas.

I, Barbara Yarbrough, first being duly sworn upon oath, depose and say that I am authorized to represent Duke Energy Carolinas, that I have read the above motion to dismiss and know the contents; that the contents are true and correct to the best of my knowledge and belief.

Duke Energy Carolinas, LLC

  
Barbara Yarbrough, Regulatory Affairs Manager

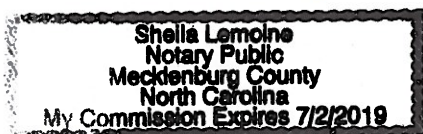
Subscribed and sworn to before me this

2 day of \_\_\_\_\_ February 2015

  
\_\_\_\_\_

Notary Public for North Carolina

My Commission Expires: July 2, 2019





**BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
Docket No. 2015-34-E**

<b>In re:</b>	)	
	)	
<b>Rosalyn Geer,</b>	)	
<b>Complainant/Petitioner</b>	)	
	)	<b>CERTIFICATE OF SERVICE</b>
<b>v.</b>	)	
	)	
<b>Duke Energy Carolinas, LLC,</b>	)	
<b>Defendant/Respondent</b>	)	
_____	)	

This is to certify that I, Toni C. Hawkins, a Paralegal with the law firm of Robinson, McFadden & Moore, P.C., have this day caused to be served upon the person(s) named below the **Motion of Duke Energy Carolinas, LLC to Dismiss the Complaint of Rosalyn Geer and Request to Hold Filing Deadlines and Hearing Date in Abeyance Pending Resolution of Motion** in the foregoing matter by placing a copy of same in the United States Mail, postage prepaid, in an envelope addressed as follows:

Ms. Rosalyn Geer  
207 Ramsey Road  
Anderson, SC 29621

Shannon Bowyer Hudson, Esquire  
Deputy Director, Legal Services  
SC Office of Regulatory Staff  
1401 Main Street, Suite 900  
Columbia, SC 29201

Dated at Columbia, South Carolina this 3<sup>rd</sup> day of February, 2015.

  
\_\_\_\_\_  
Toni C. Hawkins